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14 February 1996

Federal Communications Commission
Washington D. C. 20554

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The enclosed comments are in response to the following amendments, implementations and dockets before the FCC.

Sincerely,

Stanley M. Bronisz
Stanley M. Bronisz

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FCC 95-501

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Amendment of Part 90 of the
Commission's Rules to Facilitate
Future Development of SMR Systems
in the 800 MHz Frequency Band

Implementation of Sections 3(n) and 322
of the Communications Act
Regulatory Treatment of Mobile Services

Implementation of Section 309(j)
of the Communications Act --
Competitive Bidding

PR Docket No. 93-144
RM-8117, RM-8030
RM-8029

GN Docket No. 93-252

PP Docket No. 93-253

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PROPOSED AUCTION OF 800 MHz

WIZTRONICS PROSPECTS:

A) Background:

Wiztronics is a small business that has developed SMR Systems on two sites. Wiztronics has 3 repeater sites. Two sites are on land leased from the State of Washington's Department of Natural Resources and one site is owned by Wiztronics principle's. The owned site was purchased in January 1995.

B) Effects of current licensing freeze on Wiztronics:

1) Wiztronics has 2 license applications with one assigned frequency for each application frozen. The original applications were in November 1993.

Because we dare not jeopardize the existing license application, Wiztronics is forced to leave one SMR system on Sehome Mountain paying a monthly site fee instead of moving it to the much better site on Toad Mountain that the Wiztronics principle's own.

2) Wiztronics opened a second location in Mount Vernon. Wiztronics could not ask for a SMR license for the Mount Vernon area because of the licensing freeze (even though we had found an entity willing to let us duplicate his frequencies in Mount Vernon in exchange for Wiztronics letting him duplicate Wiztronics frequencies elsewhere.)

Because Wiztronic did not have its own system in the Mount Vernon area, all the monthly income from repeater usage generated by sales from our salesman went to a competitor. Wiztronics lost over \$36,000.00 from the Mount Vernon operation before a downturn in our Bellingham area economy left us unable to subsidize the Mount Vernon operation.

Our salesman estimated that over the years he put \$3,000.00 a month revenue on our competitors system. \$3,000 a month X 12 months X 3 years is \$108,000.00. So the freeze hurt Wiztronics big time! We closed the Mount Vernon office in June 1995 and had to lay off our salesman. He went to work for a direct competitor.

3) Because Wiztronics has always played by the rules and did not paper load, we sent a license in in 1987 for Foote Communications rather than in Wiztronics name for the Mount Vernon area. Foote was granted the license and later sold out to Questar.

C) Wiztronic's auction prospects:

1) Wiztronics principles have their houses mortgages fully to finance expansion of Wiztronics business and the new repeater site on Toad Mountain.

Bankers tell us that our proposals are excellent and makes sense but because of court decisions they cannot loan us money on our licenses. So in terms of loan collateral our F.C.C. licenses are of no value.

Wiztronics and Wiztronics principles do not have the funds to participate in an auction.

2) Wiztronics has no frequencies in Seattle or Spokane (i.e. eastern Washington area) with which to move incumbents to. If Wiztronics had the cash to successfully win an auction for a 5 channel block we would have to purchase an existing incumbents channels to meet the

F.C.C.'s 5 channel block license requirements. Since one entity owns over 90% of the licenses in Seattle and paid over \$100,000.00 per channel per site and would want to show a profit...

Wiztronics' principles Visa Cards do not have that high of a credit limit.

3) If Wiztronics had the funds to win the auction and obtain incumbents channels Wiztronics would still have to obtain the necessary financing to build the system.

After spending all this money Wiztronics would have to charge more per customer on the average than cellular does today. With a good chunk of its infrastructure already paid for, cellular could cut its rates very easily to keep customers. AT&T did not lay off 40,000 workers if it thought rates would remain the same.

4) According to the trade magazines the small PCS bidders (who are bigger than Wiztronics) have been unable to obtain the necessary funding to bid successfully.

5) The F.C.C. has changed the rules so that even though Wiztronics would be perfectly happy with expanding to Mount Vernon for the next 5 to 10 years Wiztronics is boxed in so it has to bid for expansion whether it makes economic sense or not. Not bidding - slow stagnation and eventual closure: Bidding - over extension and being closed by creditors.

6) Representatives and Senators are more interested in one shot income producers than a continuing source of income like Canada has. Relief by legislation while logical is not likely to happen.

Campaign donations by big companies are more courted than Wiztronics 10 voters who vote.

NEXTELS PROSPECTS:

A) Background:

Nextel (Fleetcall) was started by an ex-F.C.C. person. According to the Wall Street Journal his primary interest was in obtaining frequencies rather than in building infrastructure because of the future value of the frequencies. Building Fleetcall infrastructure was to support the value of the frequencies not the main goal itself. (unlike McCaw's Cellular One where building the infrastructure was balanced with obtaining frequencies.)

According to the trade journals the F.C.C. issued thousands of licenses (including hundreds to one entity in the State of Washington) the week before the freeze (including working Saturday.) This happened while Wiztronics had licenses pending for two years.

Being an outstanding promoter, Nextel acquired other 800 MHz entities (Cencall, OneCom, Questar, etc.)

Per the trade publications, the radio Nextel (Fleetcall) choose to use in Los Angeles did not work according to the original expectations. Apparently (this is a simplified version) when a user uses a digital radio and a competitors user uses their analogue radio on the same frequency they wipe out the digital signal.

Note: Keep in mind that political appointees to the F.C.C. and the immediate staff personally chosen by them are not necessarily chosen because of technical expertise. Trade magazines report of existing 25KHz radios being expected to need only minor tweaking to be 12.5 KHz radios when, because of the costs involved, only new radios would be built to 12.5 KHz.

MCI and other companies decided not to put more financing into Nextel.

Nextel proposed to the F.C.C. that they get a contiguous block of channels and they would pay to move incumbents off.

Incumbent SMRs opposed the proposal.
Nextels stockholders and/or creditors accepted McCaws offer for financing.
The F.C.C. proposed an auction. Virtually all the frequencies are licensed either individually or in wide area licenses.

B) Nextel's Auction Prospects:

- 1) This will be based only on the Seattle economic area as any other areas are beyond Wiztronics's economic pocketbook.
- 2) Nextel has over 90% (98%?) of the channels in the Western Washington area.
- 3) Nextel only has to pay the F.C.C. for any winning bids. Because it has enough channels it can easily relocate the few remaining nonNextel channels without having to buy any channels.
- 4) Any competitor bidding against Nextel who wins will have to purchase Nextel channels to satisfy F.C.C. requirements to service 50% of the population. Nextel is definitely in the drivers seat here.
- 5) This is McCaws home. It is normal to want to build a system in one's hometown.
- 6) McCaw has the access to financial backers who have seen his successful track record.
- 7) McCaw can easily bid \$100,000 per channel knowing that in reality any other successful bidder will have to pay him a good percentage of ownership or a large cash buy out. -- Maybe a 12 to 10 or more bidding advantage.

OTHER POSSIBILITIES:

- 1) The F.C.C. states that if possible incumbents and potential E.A.'s can trade frequencies and avoid an auction.
- 2) Rosalind Allen of the F.C.C. has stated the objective is to reduce paperwork with wide area licenses - auctions are not really relevant.

WIZTRONICS LONG TERM OBJECTIVES:

- 1) Wiztronics would like to have some reasonable future in the SMR business.
- 2) Wiztronics principles would like to continue doing the work they enjoy with the important time with the family they have now.

From what we have seen happen to other SMR principles who sold their frequencies, selling our channels would not let this happen.

Scientific America and Current History magazines have both run articles on the population boom in centurions. Just looking at the population demographics means that the principles at the Wiztronics will have to work till they are 70 or 75 if they expect to have sufficient funds to enjoy the late 60's!

- 3) Wiztronics principles would like to have their sons and daughters have the option to take over a successful business if they choose to do so.
- 4) Business is best done by the smallest entity capable of doing the job. National cellular-like firms are not the best entity to provide the one or two county wireless communications needed by small business. Just like television and cable have never replaced the need for the local AM radio station.

WIZTRONICS SHORT TERM OBJECTIVES: PROPOSAL IN LIEU OF AUCTION:

- 1) Wiztronics would like to have:
 - a) The same number of channels on Mt. Constitution as it now has pending at the F.C.C (9 existing and 1 pending channel)
 - b) Have its Sehome channel moved to Toad Mountain and channels increased from 5 (4 existing and 1 pending) to 20
 - c) Have a 20 channel system on Cultus Mountain (or equivalent in coverage.)
 - d) Have a site on Cultus or other mutually agreeable location so Wiztronics owns the facilities and the land.
- 2) These may seem like a lot but because Wiztronics is north of Victoria, B.C. (which is on Vancouver Island, Canada south of Bellingham), there are not the 450Mhz frequencies available to us as in other parts of Washington State.
- 3) The cost is less that what Questar verbally offered us for fewer channels 7 years ago.

ALTERNATIVE PROPOSAL:

A 4 for 1 trade -- Nextel trades Wiztronics 4 frequencies in the entire Seattle BEA for each frequency Wiztronics has in the auction bloc. (32 frequencies for 8 frequencies). This is assuming that Nextel/OpeComm has enough frequencies to do this for every other entity who has auction bloc frequencies in the Seattle BEA. Or some combination of the first proposal and the alternative proposal.

BENEFITS TO NEXTEL: OF AVOIDING AN AUCTION:

- 1) Avoiding an auction. Even though big companies are suppose to logically study a market and bid accordingly, logic doesn't always prevail. Sometimes emotions take over.
- 2) A competitors strategy may be to force Nextel to bid higher for Seattle E.A.'s so that Nextel has less to bid elsewhere. (Tic for Tat Strategy).
- 3) Getting a settlement without having to pay for auctions is a lot cheaper than paying for the minimum auction bid and still having to relocate channels.
- 4) Getting an E.A. license months before the competition is worth a lot in having the time to properly evaluate the infrastructure at a more economical basis.
- 5) Getting an E.A. system started on a friendly basis without having to wait the two years for mandatory relocation saves a lot of time.
- 6) Having a focused usable channel allocation is worth a lot more than a whole bunch of randomly collected channels that might be worth something in the future.
- 7) The frequencies in the future will not be worth as much as they are today. Right now digital is in its infancy and even today's cellular trade magazines acknowledge that the audio quality of analog can be superior. Right now the increase is only 3:1. Five to 10 years from now the bugs will be worked out with much more capacity. The trade magazines talk openly of a fall in frequency value when that happens.
- 8) An ongoing E.A. system is worth a lot more than just selling the frequencies to a successful bidder.
- 9) Possible legal challenges by SMR organizations to auctions could tie up channels in the courts. Especially if a coalition of 450MHz Community Repeater owners, local governments, state agencies and broadcasters join the SMR organization against the F.C.C's auctions. -- so far a very successful divide and auction strategy.

10) The window of opportunity - in 5 to 10 years satellites will provide the national wireless communications needed by the firms and individuals who need national coverage cheaper than any land based national system.

11) An agreement here in the Northwest could be a precedence for other E.A.'s in the U.S. keeping Nextel from having to pay auction prices.

12) Seattle is McCaw's home and the future headquarters of Nextel. It makes a lot of sense to build a test system right where the boss can see what is right and what is wrong; Where there is somebody who knows what a system should be capable of and has the horsepower to fix it.

OTHER POINTS:

1) Any agreement would have to be compatible with other agreements with members of the Northwest Wireless Network who's spokesman is Bill Holesworth.

2) Nextel should have enough "extra" frequencies to satisfy all incumbents and still end up with all 3 E.A. licenses.

3) Even though Wiztronics principles would have preferred to build our business on our own merits we realize that sometimes you have to deal with the "competition" to turn a disaster into win-win situation. ,

4) Wiztronics has always had good relations with Questar (now Nextel) both in technical and non-technical matters.

PITFALLS:

1) The administration at a higher level than the F.C.C. may insist that auctions take place anyway so that the F.C.C. is a Federal Cash Cow.

2) All the members of the Northwest Wireless Network are independent and stubborn or else they would have sold out a long time ago. It is always possible that one member may not want to go along.

3) McCaw may win enough PCS licenses that they will not want to bother with the 800 MHz auction.